



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 020614-0129]

RIN 0648-BK62

Pacific Island Fisheries; Interim Measures for American Samoa Bottomfish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; interim measures.

SUMMARY: This temporary rule implements an interim catch limit (ICL) of 13,000 lb (5,897 kg) of American Samoa bottomfish during the effective period of the rule in fishing year 2021. NMFS will monitor catches, and if the fishery reaches the ICL within the fishing year, we will close the fishery in Federal waters through the end of the effective period of this rule. These interim management measures are necessary to reduce overfishing of American Samoa bottomfish while minimizing socio-economic impacts to fishing communities. This temporary rule supports the long-term sustainability of American Samoa bottomfish.

DATES: Effective [*Insert date of publication in the FEDERAL REGISTER*] through November 18, 2021.

ADDRESSES: Copies of the Fishery Ecosystem Plan for the American Samoa Archipelago (FEP) are available from the

Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, or www.wpcouncil.org.

NMFS prepared an environmental assessment (EA) that describes the potential impacts on the human environment that could result from this temporary rule. The EA and other supporting documents are available from www.regulations.gov/docket?D=NOAA-NMFS-2020-0099.

FOR FURTHER INFORMATION CONTACT: Brett Schumacher, NMFS PIR Sustainable Fisheries, 808-725-5185.

SUPPLEMENTARY INFORMATION: NMFS and the Western Pacific Fishery Management Council (Council) manage the bottomfish fishery in the U.S. Exclusive Economic Zone (Federal waters) around American Samoa under the FEP and the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Most of the management measures for the fishery are found at 50 CFR 665.

In 2020, in response to a stock assessment and consistent with sections 304(e)(6) and 305(c) of the Magnuson-Stevens Act (16 U.S.C. 1854(e)(6) and 1855(c), respectively), the Council requested that NMFS implement an interim measure to reduce overfishing of the stock while the Council develops rebuilding management measures required by section 304(e)(3). A proposed temporary rule, published on September 11, 2020 (85 FR 56208), included a

request for public comment. That proposed rule also noted that the action may be extended by NMFS for up to an additional six months while longer-term measures were developed. NMFS considered all comments received and responded to comments in a final temporary rule (85 FR 73003, November 16, 2020) that implemented an ICL of 13,000 lb (5,897 kg) for each 2020 and 2021 fishing year (85 FR 73003). The rule included an in-season accountability measure (AM) where, if NMFS projects that the fishery will reach the ICL within a fishing year, we would close the fishery in Federal waters through the end of the fishing year, or the end of the effective period of the temporary rule, whichever was earlier.

The temporary rule implementing the interim measure was published on November 16, 2020 and was effective for 180 days, until May 17, 2021. Because the Council is still actively preparing an FEP amendment to address overfishing on a permanent basis, it requested that NMFS extend the interim measure an additional 185 days, pursuant to Magnuson-Stevens Act section 305(c). Thus, this temporary rule extends the interim measures, and the catch limit of 13,000 lb (5,897 kg) and in-season AM will apply for fishing year 2021 until the temporary rule expires on November 18, 2021 or is replaced. To maintain consistency with the timeframe of catch projections from the stock assessment and the bottomfish fishing year (January 1,

2021, through December 31, 2021), NMFS will monitor catches of bottomfish management unit species (MUS) made in both territorial and Federal waters during the fishing year and will count the combined catch toward the ICL for 2021.

This temporary rule does not alter the previous ICL or AM that expired on May 17, 2021; it extends the effective period an additional 185 days from the expiration of the original measure as requested by the Council. This interim measure will reduce overfishing relative to the status quo, and will minimize social and economic impacts to the community relative to any measure that would have ended overfishing immediately. You may find additional background information on this action in the preamble to the proposed temporary rule published on September 11, 2020 (85 FR 56208).

Classification

The Assistant Administrator for Fisheries finds it is unnecessary and contrary to the public interest to provide for prior notice and an opportunity for public comment pursuant to authority set forth at U.S.C. 553(b)(B). NMFS previously invited and responded to public comments on implementation of the management measures in 2020 and 2021, as well as on the possibility of an extension of those measures, and this action does not change that original measure in any way except to change the period of effectiveness. Similarly, the need to implement the

temporary rule in a timely manner to reduce overfishing constitutes "good cause" under authority contained in 5 U.S.C. 553(d)(3) to make the rule effective immediately upon publication in the **Federal Register**. The fishery is experiencing overfishing, and management measures are needed to reduce catch to mitigate immediate effects of fishing on the stock and long-term effects on the fishing community while the stock is rebuilding. Specifically, this temporary rule should be implemented immediately to establish thresholds that would minimize adverse biological effects to the stock and adverse long-term social and economic effects to fishermen and communities that utilize bottomfish in American Samoa.

This action is being taken pursuant to the emergency provision of Magnuson-Stevens Act and is exempt from OMB review. This temporary rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and opportunity for public comment. This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 665

Accountability measure, American Samoa, Bottomfish,
Fisheries, Fishing, Interim catch limit, Pacific Islands.

Dated: June 14, 2021.

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory

Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends
50 CFR part 665 as follows:

PART 665 – FISHERIES IN THE WESTERN PACIFIC

1. The authority citation for 50 CFR part 665
continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. Add § 665.102 to read as follows:

§ 665.102 Bottomfish interim catch limit.

(a) The interim catch limit for American Samoa
bottomfish MUS for the 2021 fishing year is 13,000 lb.

(b) When the interim catch limit is projected to be
reached, the Regional Administrator shall publish a
document to that effect in the **Federal Register** and shall
use other means to notify permit holders. The document will
include an advisement that the fishery will be closed,

beginning at a specified date that is not earlier than seven days after the date of filing the closure notice for public inspection at the Office of the Federal Register, through the end of the fishing year in which the interim catch limit is reached or the end of the effective period of this rule, whichever comes first.

(c) On and after the date the fishery is closed as specified in paragraph (b) of this section, fishing for and possession of American Samoa bottomfish MUS is prohibited in Federal waters around American Samoa, except as otherwise authorized by law.

(d) On and after the date the fishery is closed as specified in paragraph (b) of this section, possession, sale, offering for sale, and purchase of any American Samoa bottomfish MUS caught in Federal waters around American Samoa is prohibited.

3. In § 665.103, stay the introductory paragraph, add paragraph (a), and add and reserve paragraph (b) to read as follows:

§ 665.103 Prohibitions.

* * * * *

(a) In addition to the general prohibitions specified in § 600.725 of this chapter and § 665.15, it is unlawful for any person to do any of the following:

(1) Fish for American Samoa bottomfish MUS or ECS, or seamount groundfish MUS using gear prohibited under §

665.104.

(2) Fish for, possess, sell, offer for sale, or purchase any American Samoa bottomfish MUS in a closed fishery, in violation of § 665.102.

(b) [Reserved]

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